IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7766 of 2006

For Approval and Signature:
HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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INDIAN PETROCHEMICALS CORPORATION LTD - Petitioner(s)
Versus
RB SONI & 2 - Respondent(s)

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Appearance :
MR KEYUR GANDHI for NANAVATI ASSOCIATES for Petitioner(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 1, 3,
MR SUBRAMANIAM IYER for Respondent(s) : 2,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 01/02/2007

ORAL JUDGMENT

Heard the learned advocates.

RULE returnable today. Mr.Iyer waives service of rule. With the consent of the learned advocates, the petition is heard and disposed of today.

The petitioner-Indian Petrochemicals Corporation Limited (hereinafter referred to as, **"the Corporation"**) challenges the order dated 30th August, 2005 made by the Labour Court, Vadodara below application Exh.27 in pending Reference (LCV) No.231/1997. By impugned order, the Court below has allowed the application Exh.27 and has joined the Corporation has party respondent in the pending reference.

Feeling aggrieved by the termination of his service, the workman, the respondent no.2, had raised industrial dispute against his employer, the Land Losers' Cooperative Society, the respondent no.3, which came to be referred to the Labour Court, Vadodara and registered as Reference (LCV) No.124/1990 (now renumbered as 231/1997). Pending the said reference, the workman filed application Exh.27 and sought impleadment of the Corporation as party respondent. According to the workman, the respondent no.3 Society had contested the reference and filed written reply. In the said written reply, the Society

had mentioned that the workman was deployed as a labourer under the Corporation. The Corporation was, therefore, a necessary party to the proceeding. The said application was contested by the Corporation. The Corporation also challenged the jurisdiction of the Labour Court to implead a party to a reference beyond the terms of the reference. The said application Exh.27 has been allowed by the impugned order. The Corporation is ordered to be impleaded as party to the pending reference. Therefore, the present petition.

Mr.Gandhi has submitted that the workman had never claimed any relief against the Corporation. Neither the workman had raised industrial dispute against the Corporation nor such dispute was referred to the Labour Court for adjudication. The Court below, therefore, had no jurisdiction to implead the Corporation as party to the pending reference. In support of that contention, Mr.Gandhi has relied upon the judgment dated 22nd July, 2004 delivered by this Court (Coram: K.S.Jhaveri, J.) in the matter of **Indian Petrochemicals Corp. Ltd. v/s. Ajitdan**

Gulabdan Gadhvi (Special Civil Application No.12873 of 2003).

In answer to the notice issued by this Court, the workman has entered appearance through the learned advocate Mr.Iyer. Mr.Iyer has contested this petition. He has relied upon a settlement dated 8th July, 1995 entered into by the Corporation with certain labour contractors. Mr.Iyer has submitted that the workman is entitled to the benefits under the said settlement. He has, however, admitted that in the pending reference the workman has not claimed any relief against the Corporation.

In my opinion, the impugned order made by the Court below is wholly without the jurisdiction. Unless the workman raises industrial dispute against the Corporation and such dispute is referred to the Labour Court, the Labour Court will not have jurisdiction to entertain any claim the workman may have against the Corporation. Moreover, Mr.Iyer has admitted that the workman has not claimed any relief

against the Corporation. Therefore also, the Corporation cannot be impleaded to the pending reference.

For the aforesaid reasons, the petition is allowed. The impugned order dated 30th August, 2005 made below application Exh.27 is quashed and set-aside. The application Exh.27 is rejected. Rule is made absolute. The parties shall bear their own cost.

It is clarified that this order shall not preclude the workman from raising industrial dispute against the Corporation, if he has any.

(Ms. R.M.Doshit, J.)

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